tion of his undertaking. He evidently aimed to produce a law book, and not merchandise.

According to his modest preface, Mr. Machen regards the corporation "as a living organism." That strikes the dominant note of the book. The corporation in these pages is a live phenomenon, presenting concrete, present-day problems for solution. The author has wisely limited his field, and not sought to cover the whole domain of law in any wise touching corporations. He does not treat (1) the relation of the corporation to the state, including the taxation of corporations; (2) foreign corporations; (3) the winding up and dissolution of corporations and related topics (except in so far as these were involved in the chapters on bonds and mortgages); (4) the consolidation and reorganization of corporations. He has further saved space and maintained a proper perspective by avoiding unnecessary discussion of well-settled principles.

While Mr. Machen has written a treatise for the practicing lawyer, and has paid proper respect to the authorities, he has not surrendered his discriminating critical faculty. He recognizes that it is not the true function of a law writer unquestioningly to embalm the cases. See, for instance, his treatment of that enigma of the law, the federal rule of *ultra vires*, particularly the discussion of *Logan Bank* v. *Townsend*, 139 U. S. 37 (§§ 1032–1047). Space does not permit a reference to the many subjects that are treated with great cogency and unusual felicity. We would mention (and these examples are picked at random) his excellent treatment of the following topics: one-man corporations (chap. xvii.); promoters (chap. vi.); the remedy of a shareholder to sue in his own name (§§ 1142 *et seq.*); voting trusts (chap. xxi.); "watered stock" (§§ 746 *et seq.*); powers of majority (chap xxii.). And yet, while the whole book is characterized by an independence of thought and freshness of treatment, like a careful scientist Mr. Machen avoids dogmatism or hasty generalization. He is suggestive, but never quixotic. Even his nomenclature is reformative, not revolutionary. And he again disproves the fallacy that a law book, in order to be sound and scholarly, must be dull and uninteresting.

Not that we concur in all of Mr. Machen's views. Thus, we do not subscribe to his position on the liability as partners of members of a defectively incorporated company (§ 293): the view of implied warranty of authority as acting for the corporation is more to our liking (see 19 HARV. L. REV. 389). So, too, we think *Sheffield Co.* v. *Barclay*, [1905] A. C. 392, is to be rested on the theory advanced by Professor Ames (17 HARV. L. REV. 543), rather than that of implied warranty. We doubt, also, whether the Chancellor's discretion to impose conditions on appointing receivers is the real theory of the rule in *Fosdick* v. *Schall*, 99 U. S. 235 (see 18 HARV. L. REV. 605). But we confess Mr. Machen has disappointed us even in the traditional efforts of a reviewer at fault-finding. Equally does he confound "insectile criticism" in the fulness and correctness of his citations. F. F.

HANDBOOK ON AMERICAN MINING LAW. By George P. Costigan, Jr. Hornbook Series. St. Paul: West Publishing Company. 1908. pp. xiv, 765.

It is a genuine pleasure to review a meritorious work. The Handbook on American Mining Law by George P. Costigan, Jr., is of this character. While the work deals primarily with the Mining Law in force in the public domain of the West, the title has been chosen because this branch of the mining law in the United States has become distinctively American. The author has endeavored "to give a comprehensive, well proportioned, and up-to-date treatment of the subject," and a critical examination of the work leads to the conclusion that he is justified in using this language in his prefatory statement. Careful thought, painstaking research, and conscientious effort have entered into the preparation of the text, and the author has not avoided the discussion of unsettled and moot questions, as is the habit of many text-writers. "An exhaustive citation of cases has not been attempted," but we find the citations numerous and in the

main satisfactory. The author does not claim the credit of the forms which are published in an Appendix, but has taken them from Morrison's Mining Rights. The federal statutes and regulations of the Land Department are printed in full in appendices.

While the author's treatment of certain phases of the subject might, from a professional standpoint, appear academic, it must be kept in mind that he is also writing for students, and is therefore entitled to considerable latitude in this respect.

The author has entered into the spirit of our Western mining law, and his treatment of most of its problems is eminently satisfactory. His discussion of the questions involved in Amended Locations and Relocations is particularly praiseworthy.

We are constrained, however, to differ with his conclusions regarding the case of *Lavagnino* v. *Uhlig*, 198 U. S. 443. This case had the effect of virtually overruling *Belk* v. *Meagher*, 104 U. S. 279, which had announced that "Mining claims are not open to relocation until the rights of a former locator have come to an end. . . . A relocation on lands actually covered at the time by another valid and subsisting location is void; and this not only against the prior locator, but all the world, because the law allows no such thing to be done."

For many years and by an unbroken line of decisions, both state and federal, the courts of the mining states held that under this decision a subsequent overlapping location was absolutely void as to the conflicting surface area already embraced within a valid and subsisting senior claim; that the junior locator must either amend or make a relocation, after the senior claim had been abandoned or forfeited, in order to acquire any rights to the conflict area; or, if he did not avail himself of this opportunity, a third locator could step in after the termination of the senior locator's estate and make a location that would prevail as against the prior junior claim.

The Lavagnino case without reference to or comment upon the Belk-Meagher decision, announced a doctrine which was diametrically opposed to this old and well-established rule, and which had the effect of making the conflict area inure by gravitation merely to the prior junior claim. The case met with almost universal condemnation on the part of the mining profession, and was severely criticised by the courts of the mining regions.[1]

So powerful was this adverse criticism that the United States Supreme Court virtually overruled the Lavagnino doctrine in the recent case of *Farrell* v. *Lockhart*, 210 U. S. 142, and gave as a controlling reason for such retraction, ". . . the experience of the courts referred to concerning the practice which it was declared had prevailed, . . . the result of previous decisions of this court, and the effect on vested rights which it was said would arise from a change of such practice . . ."

Mr. Costigan asserts that the Farrell-Lockhart decision is "a backward step," and expresses the belief (note, p. 324) that the Lavagnino doctrine "seems so essentially sound on principle that its rehabilitation ought reasonably to be expected." We cannot concur with him in his belief concerning this doctrine, in view of the decisions and discussions above cited which point out unmistakably the fallacy in the reasoning of the Lavagnino decision. More than all else, we must not lose sight of the fact that the controlling reason which induced the highest tribunal in the land to modify its former opinion and re-establish the doctrine of *Belk* v. *Meagher*, was the custom and practice in the mining regions of the West, which form the basis of our mining law.

The author is intensely academic where he discusses the possibility of the assertion of extralateral rights on subsequently discovered veins in patented mill-sites and placers (pp. 409-410). It can hardly be contended seriously

[1] See Lockhart *v.* Farrell, 86 Pac. 1077 (Utah); Ambergris M. Co. *v.* Day, 85 Pac. 109, 114 (Idaho); Nash *v.* McNamara, 93 Pac. 405 (Nev.); Montague *v.* Labay, 2 Alaska 515; and Dufresne *v.* Northern Light M. Co., 2 Alaska 592. See also an able editorial note in 68 L. R. A. 442 and 94 Mining & Scientific Press Discussions, 212, 695, 751.

that the grant of extralateral rights contained in § 2322, U. S. Rev. Stat. is not confined to "mining locations made," in the first instance, "on any mineral vein, lode, or ledge." Mill-sites and placers have no "end lines" within the spirit of the statute. Mr. Costigan certainly would not contend that § 2320 applied to mill-sites and placers, and yet in the original act of 1872, §§ 2320 and 2322 stood in juxtaposition.

It is to be regretted that in a work which gives evidence of such painstaking preparation a more complete index is not provided, and that there should not be more cross references.

There are other criticisms that could be made of Mr. Costigan's work, but they are of a minor character, and it is not the reviewer's desire to do otherwise than convey the impression that this work possesses exceptional merit. Because of its excellence and comparative cheapness, the book should find favor with students of mining law, and it should also have a place in the library of every attorney who has occasion to deal with the many and intricate problems connected with this branch of the law. W. E. C.

THE LAW OF CHILDREN AND YOUNG PERSONS IN RELATION TO PENAL OFFENSES. By L. A. Atherley Jones and Hugh H. L. Bellot. London: Butterworth & Co. 1909. pp. xxv, 380. 8vo.

This book deals with the British Acts under which young children are guarded against the cruelty or negligence of parents or guardians, and in later life their employment in the mine, the factory, the workshop, and the field is regulated. The law relating to the punishment and reform of juvenile offenders is considered, and their industrial training and general education so far as it is regulated by statute is explained. The book is in the form of a commentary on the Children Act of 1908. This Act, which was passed a year ago by the efforts of Mr. Samuel, the under Secretary of State for the Home Department, has improved and codified the law of children in England and has done for children what our Juvenile Court Acts have done in this country. Its passage is a part of the world-wide movement for the protection and reclamation of the young. It is surely one of the most beneficial tendencies of the new century that statesmen and reformers are turning their attention to the children; for if they are properly brought up most of the problems of adult pauperism and crime can be easily handled.

The work of the authors of this book consists in an annotation of the new Act, section by section. The work is well done, and in parts the authors are able to throw much light, in advance of judicial explanation, upon the meaning of the clauses. While directly adapted for British readers only, the book will be most helpful to all who have to do with the administration of juvenile laws in this country. J. H. B.

CASES ON THE CONFLICT OF LAWS. By Ernest G. Lorenzen. American Case Book Series. James Brown Scott, General Editor. St. Paul: West Publishing Company. 1909. pp. xxi, 784. 8vo.

There is a growing feeling among lawyers that law books of all kinds — official and unofficial reports, collections, digests, and treatises — have been increasing in number too rapidly. The profession is being overwhelmed by printed matter. It is impossible to keep pace with current legal literature. Yet the existence of a good treatise in a particular field has rightly enough never been considered a reason why another author should not enter the same field; for the opinions and judgments on the law, even of men of equal training, experience, and natural ability, do not always coincide, and the statement of those opinions and judgments — conceding the author to be a man of good training, experience, and natural ability — is always of advantage to the profession.